

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

LARRY NEWBURN, )  
Plaintiff, )  
v. ) No. 4:18CV1744 RLW  
ST. LOUIS, MO VETERANS AFFAIRS )  
MEDICAL CENTER, et al., )  
Defendants. )

## **MEMORANDUM AND ORDER**

This matter is before the Court on the Motions to Dismiss and for Substitution of the United States of America as Defendant filed separately by Defendant St. Louis, MO Veterans Affairs Medical Center and Defendants Dr. Mohammad Qadir and LPN Shautley Ray. (ECF Nos. 13 & 14, respectively) Plaintiff Larry Newburn has not filed any response to either motion as of the date of this Memorandum and Order, and the time in which to do so has passed.

Plaintiff's *pro se* Complaint asserts a medical malpractice claim against multiple defendants related to treatment at the St. Louis, MO Veterans Affairs Medical Center. (ECF No. 1) The United States Attorney for the Eastern District of Missouri has certified that Defendants Dr. Mohammad Qadir and LPN Shautley Ray were was acting within the scope of their employment with the St. Louis, MO Veterans Affairs Medical Center at the time of the incident out of which the suit arises. (ECF No. 14-1) The remaining defendants<sup>1</sup> argue that the St. Louis, MO Veterans Affairs Medical Center is a division of a federal agency – the Department of Veterans Affairs – and, accordingly, the Federal Tort Claims Act, 28 U.S.C. §§ 2679(a) and

<sup>1</sup> The Court previously dismissed Defendants Keith Repko, Patricia McKelvey, Cheryl Anderson, Suzzane Blaylock, Jennifer Roberts, Angie Nicholson, and Jock Holmes. (ECF Nos. 4 & 5)

(d)(1) provide that the proper entity for Plaintiff's claim is the United States of America. The Court agrees. Consequently, Defendants St. Louis, MO Veterans Affairs Medical Center, Dr. Mohammad Qadir, and LPN Shautley Ray are dismissed from this case and the United States of America is substituted in its place.

Accordingly,

**IT IS HEREBY ORDERED** that Defendant St. Louis, MO Veterans Affairs Medical Center's Motion to Dismiss and for Substitution of the United States of America as Defendant (ECF No. 13) is **GRANTED**.

**IT IS FURTHER ORDERED** that Defendants Dr. Mohammad Qadir and LPN Shautley Ray's Motion to Dismiss and for Substitution of the United States of America as Defendant (ECF No. 14) is **GRANTED**.

**IT IS FURTHER ORDERED** that Plaintiff Larry Newburn's claims against Defendants St. Louis, MO Veterans Affairs Medical Center, Dr. Mohammad Qadir, and LPN Shautley Ray are **DISMISSED with prejudice**, each party to bear its own costs. A separate Order of Partial Dismissal accompanies this Memorandum and Order.

**IT IS FURTHER ORDERED** that the United States of America is substituted as a defendant in this action, and the caption shall be amended accordingly.

**IT IS FINALLY ORDERED** that the Clerk of Court shall mail a copy of this Memorandum Order to Plaintiff via UPS.

The United States of America is reminded of its obligation to answer or otherwise respond to the Complaint (ECF No. 1) within the time set by the rules.

Dated this 15 day of April, 2020.

  
**RONNIE L. WHITE**  
**UNITED STATES DISTRICT JUDGE**